

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BENJAMIN SWITEK,
Plaintiff,

v.

MIDLAND COUNTY and
CHIPPEWA COUNTY,
Defendants.

_____ /

Case No.: 21-12184

Matthew F. Leitman
United States District Judge

Curtis Ivy, Jr.
United States Magistrate Judge

**ORDER DENYING WITHOUT PREJUDICE MOTION TO COMPEL (ECF
No. 53), DENYING MOTION TO STRIKE (ECF No. 58), and DENYING
MOTION TO COMPEL (ECF No. 60)**

Plaintiff Benjamin Switek filed this lawsuit without the assistance of counsel on September 7, 2021. (ECF No. 1). This case was referred to the undersigned for all pretrial matters on April 18, 2022. (ECF No. 38). This matter is before the Court on discovery motions filed by both parties.

On September 20, 2022, Defendants moved to compel answers to interrogatories and requests for production of documents. (ECF No. 53). Plaintiff responded with a motion to strike the motion to compel on October 6, 2022. (ECF No. 58). Defendants argued that she served their requests on Plaintiff on August 16, 2022, but as of the date of that motion, Plaintiff had not responded. In his response motion to strike, Plaintiff asserted that he sent responses and objections to the Defendants. In response to Plaintiff's motion to strike, aside from arguing that

the motion to strike should be denied, Defendants revealed in a footnote that they received Plaintiff's responses, but the responses are deficient. (ECF No. 59, PageID.501, n. 1).

Defendants' motion to compel is **DENIED WITHOUT PREJUDICE**. Plaintiff has responded to the requests. The Court cannot evaluate the adequacy of those responses without proper argument in briefing. If Defendants choose to pursue argument related to Plaintiff's discovery responses, they must file a motion to compel **within 10 days** of this Order.

Plaintiff's motion to strike is **DENIED**. Federal Rule of Civil Procedure 12(f) authorizes a court to strike from a pleading any "insufficient defense or any redundant, immaterial, impertinent or scandalous matter." As Defendants noted, the Court cannot strike a motion because a motion is not a pleading under Fed. R. Civ. P. 7(a). Nor did Plaintiff identify any immaterial or impertinent content in the motion to compel that requires the Court's intervention.

On October 19, 2022, Plaintiff moved for an order compelling Defendants to respond to discovery requests. But rather than a motion compelling responses to discovery served on Defendants, this document contains the discovery requests. In essence, Plaintiff is serving the requests on Defendants through the Court's docket. If this is indeed an attempt to obtain discovery in the first instance by filing requests with the Court, the attempt is improper under Eastern District of

Michigan Local Rule 26.2 and Fed. R. Civ. P. 5(d)(1). Discovery requests must be made in accordance with Fed. R. Civ. P. 26 through 37. The motion is **DENIED**.

The discovery deadline has passed (October 21, 2022) and the dispositive motion deadline is fast approaching (November 21, 2022). In this Order, Defendants are given the opportunity to litigate the propriety of Plaintiff's discovery responses. And while Plaintiff's attempt to obtain discovery was improper, his requests are dated before the discovery cut off indicating an attempt to comply with case deadlines. To allow the parties to complete discovery, the Court will extend case deadlines. **Discovery must be completed on or before December 23, 2022, and dispositive motions must be filed on or before January 27, 2022.**

IT IS SO ORDERED.

The parties here may object to and seek review of this Order, but are required to file any objections within 14 days of service as provided for in Federal Rule of Civil Procedure 72(a) and Local Rule 72.1(d). A party may not assign as error any defect in this Order to which timely objection was not made. Fed. R. Civ. P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in

effect unless it is stayed by the magistrate judge or a district judge. E.D. Mich.

Local Rule 72.2.

Date: November 4, 2022

s/Curtis Ivy, Jr.

Curtis Ivy, Jr.

United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court's ECF System or by First Class U.S. mail on November 4, 2022.

s/Kristen MacKay

Case Manager

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